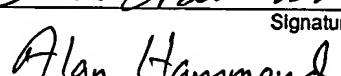




TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT		Docket Number (Optional) 02307E-151530US
<p>In re Application of: Roger Y. Tsien et al.</p> <p>Application No.: 10/057,505</p> <p>Filed: January 25, 2002</p> <p>For: TANDEM FLUORESCENT PROTEIN CONSTRUCTS</p> <p>The owner*, <u>Invitrogen Corporation</u>, of <u>100%</u> percent <u>joint</u> interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term prior patent No. <u>5,981,200</u> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> expires for failure to pay a maintenance fee;</li> <li><input type="checkbox"/> is held unenforceable;</li> <li><input type="checkbox"/> is found invalid by a court of competent jurisdiction;</li> <li><input type="checkbox"/> is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;</li> <li><input type="checkbox"/> has all claims canceled by a reexamination certificate;</li> <li><input type="checkbox"/> is reissued; or</li> <li><input type="checkbox"/> is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</li> </ul> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input checked="" type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.  I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. _____</p> <p>  _____  Signature</p> <p>  _____  Typed or printed name</p> <p>  _____  Date</p> <p>Telephone Number _____</p> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p><b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b></p>		

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**TERMINAL DISCLAIMER TO OBLIVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

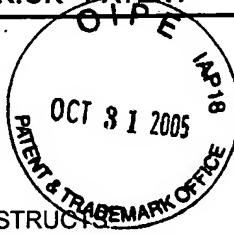
Docket Number (Optional)  
02307E-151530US

In re Application of: Roger Y. Tsien et al.

Application No.: 10/057,505

Filed: January 25, 2002

For: TANDEM FLUORESCENT PROTEIN CONSTRUCT



The owner\*, The Regents of the University of California, of 100% percent joint interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term prior patent No. 5,981,200 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. \_\_\_\_\_

Linda S. Stevenson  
Signature

3122105-

Date

Linda S. Stevenson  
Typed or printed name

510-587-6000  
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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